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11 Attorneys for Defendant
12 GEICO GENERAL INSURANCE COMPANY

13 UNITED STATES DISTRICT COURT
14 NORTHERN DISTRICT OF CALIFORNIA
15 SAN FRANCISCO DIVISION

16 TERRY THOMAS,

17 Plaintiff,

18 v.

19 GEICO GENERAL INSURANCE COMPANY,
20 doing business in the State of a [sic] California
21 and DOES 1- 100, inclusive,

22 Defendant.

23 **CV 11 3080**
24 Case No.: 11 3080

25 **NOTICE OF REMOVAL OF ACTION**
26 **UNDER 28 U.S.C. § 1441(b) (Diversity)**

27 Complaint filed: May 9, 2011

28 TO THE CLERK OF THE ABOVE-ENTITLED COURT:

PLEASE TAKE NOTICE that pursuant to 28 U.S.C. §§ 1332, 1441 and 1446,
Defendant GEICO GENERAL INSURANCE COMPANY ("Defendant") hereby removes to
this Court the state court action described below.

1 I. INTRODUCTION

2
3 This case is hereby removed from state court to federal court because at the
4 time the Complaint was filed, and at the present time, complete diversity of citizenship exists
5 between the parties to this action and the alleged amount in controversy exceeds \$75,000.
6 Accordingly, this Court has original jurisdiction under 28 U.S.C. § 1332(a).

7
8 II. THE STATE COURT ACTION

9
10 On May 9, 2011, Plaintiff Terry Thomas filed a Complaint for Damages against
11 Defendant in the Superior Court of the State of California, County of Marin, entitled *TERRY*
12 *THOMAS v. GEICO GENERAL INSURANCE COMPANY, doing business in the State of a*
13 *[sic] California, AND DOES 1-100, inclusive* Case No. CIV-1102349. The Complaint alleges
14 four causes of action against Defendant including: (1) Age Discrimination in violation of the
15 California Fair Employment and Housing Act ("FEHA"); (2) Wrongful Discharge and/or
16 Tortious [sic] Constructive Discharge in Violation of Public Policy; (3) Slander; (4) Intentional
17 Infliction of Emotional Distress. The Complaint and Summons was served by hand on
18 Defendant's agent for service of process on May 23, 2011. A true and correct copy of the
19 Complaint is attached hereto as **Exhibit A**.

20
21 On June 21, 2011, Defendant filed and served its Answer to Complaint in state
22 court, a true and correct copy of which is attached as **Exhibit B**.

23
24 In accordance with 28 U.S.C. § 1446(a), attached hereto as **Exhibit C** and
25 incorporated by reference are copies of the papers originally served on Defendant (except
26 for the Complaint which is attached as **Exhibit A**).

27
28 Pursuant to 28 U.S.C. § 1146(d), Defendant shall give Plaintiff, through his

1 attorney of record, written notice of the filing of this Notice of Removal, and shall file written
2 notice of the filing of this Notice of Removal with the Clerk of the Superior Court of the
3 County of Marin, attaching thereto a copy of this Notice of Removal. A true and correct copy
4 of the Notice of Removal of Action to be filed with the state court is attached as **Exhibit D**.

5
6 No further proceedings have been had, and fewer than thirty (30) days have
7 elapsed since this action became removable to this Court. In accordance with 28 U.S.C. §
8 1446(b), this Notice is timely filed with this Court.

9 10 III. JOINDER

11
12 Defendant is not aware of any other defendant having been served with a copy
13 of the Complaint.

14 15 IV. DIVERSITY JURISDICTION

16
17 The state court action is a civil action over which this Court has original
18 jurisdiction under 28 U.S.C. § 1332 based on diversity jurisdiction. The state court action is
19 properly removable to this Court in that it is a civil action between citizens of different states
20 in which the amount in controversy exceeds the sum of \$75,000, exclusive of interest and
21 costs, as explained below.

22 23 A. The Parties' Citizenship

24
25 There is complete diversity of citizenship because the operative parties,
26 Plaintiff and Defendant are citizens of different states. The only other defendants identified
27 in Plaintiff's Complaint are fictitious parties identified as "DOES I-100." The citizenship of
28 these defendants is disregarded for purposes of removal. 28 U.S.C. § 1441(a).

As of May 9, 2011, when the Complaint was filed and at all times mentioned in the Complaint, Plaintiff was a citizen and resident of the State of California. See Complaint, ¶ 1 (Exhibit A).

As of May 9, 2011, when the Complaint was filed, and at the present time, Defendant was and is a Maryland Corporation with its principal place of business in Chevy Chase, Maryland. Declaration of William C.E. Robinson in Support of Defendant's Notice of Removal ("Robinson Decl."), at ¶ 2. Accordingly, Defendant was and is a citizen of Maryland.¹ 28 U.S.C. § 1332(c)(1).

As of May 9, 2011, when the Complaint was filed, and at the present time, Defendant was not a citizen of California, and thus complete diversity exists.

B. The Amount in Controversy

The amount in controversy between the parties exceeds the minimum sum of \$75,000 set forth in 28 U.S.C. § 1332(a), exclusive of interest and costs. In this lawsuit, Plaintiff is seeking recovery of lost earnings and other employment related benefits, damages to his professional reputation, damages for alleged emotional distress, and other compensatory damages as well as attorney's fees, costs and punitive damages. Complaint, at ¶¶ 42-43, 49-50, 54, 57-58, Prayer for Relief, page 11. (Exhibit A).

Plaintiff was terminated in April, 2010. Complaint at ¶¶ 27, 33. At the time of

¹ Plaintiff named GEICO General Insurance Company as defendant in this action, but Plaintiff was not employed by this entity, rather he was employed by Government Employees Insurance Company. Declaration of Irene Citron in Support of Defendant's Notice of Removal ("Citron Decl."), at ¶ 3. Nevertheless, Government Employees Insurance Company, which wholly owns Defendant, is also a citizen of Maryland for diversity purposes. Robinson Decl., at ¶ 3.

1 his termination, Plaintiff earned \$26.62 per hour and worked on average 38.75 hours per
 2 week. Citron Decl., at ¶ 4. That yields an average of \$1,031.52 per week. Plaintiff has
 3 been terminated for approximately 63 weeks already. Thus we can safely assume that he
 4 would seek at least \$64,986 in back pay alone as of the date of removal.

5
 6 Plaintiff is also seeking recovery of employment-related benefits. At the time
 7 of termination, Plaintiff was receiving health insurance coverage for himself and his
 8 dependents through Government Employees Insurance Company's group plan, and the
 9 employer cost of coverage was \$321.36 every two weeks. Citron Decl., at ¶ 5. Therefore,
 10 as of the date of removal, the total cost of lost health insurance coverage was approximately
 11 \$10,123. That amount coupled with the back pay claim alone meets the jurisdictional
 12 requirement.²

13
 14 Punitive damages are a part of the amount in controversy in a civil action
 15 where they are recoverable as a matter of law. *See, Simmons v. PCR Tech.*, 209 F. Supp.
 16 2d 1029, 1033 (N.D. Cal. 2002); *Gibson v. Chrysler Corp.*, 261 F.3d 927, 945 (9th Cir.
 17 2001). FEHA discrimination cases may result in awards of punitive damages which meet
 18 the jurisdictional threshold. *See, e.g., Roby v. McKesson*, 47 Cal. 4th 686 (2009).

19
 20 Plaintiff's claim for emotional distress damages is also part of the amount in
 21 controversy. *See Simmons*, 209 F. Supp. 2d at 1034 ("emotional distress damages in a
 22 successful employment discrimination case may be substantial").

23
 24
 25 ² In addition to health insurance coverage, Plaintiff was receiving other employer-paid
 26 benefits such as group term life insurance coverage and long-term care insurance
 27 coverage. Citron Decl., at ¶ 6. Additionally, the Company regularly funded a pension plan in
 28 which Plaintiff was eligible participant during his employment. *Id.* It is also determined, on
 an annual basis, whether to make discretionary contributions to a profit-sharing plan, and if
 any contribution is to be made in a particular year, the amount of that contribution. *Id.*
 Plaintiff participated in this profit-sharing plan prior to his termination. *Id.*

1 Finally, Plaintiff seeks recovery of attorneys' fees. Complaint, at ¶¶ 42, Prayer
 2 for Relief, page 11. (**Exhibit A**). Attorneys' fees are provided to a prevailing plaintiff under
 3 the FEHA. Cal. Govt. Code § 12965(b). Courts should include in their amount in
 4 controversy calculation damages and attorneys' fees that, although not yet accrued, are
 5 reasonable to anticipate. *Brady v. Mercedes-Benz USA, Inc.*, 243 F. Supp. 2d 1004, 1009
 6 (N.D. Cal. 2002); *see also Simmons*, 209 F. Supp. 2d at 1035.

7
 8 Accordingly, the amount in controversy exceeds the minimum sum of \$75,000
 9 set forth in 28 U.S.C. § 1332(a), exclusive of interest and costs.

10 V. VENUE

11
 12
 13 The Superior Court of the State of California for the County of Marin is located
 14 within the Northern District of California. Accordingly, this action is properly removed to this
 15 Court. 28 U.S.C. § 84(a); Rule 3-2(d) of the Local Rules for the United States District Court
 16 for the Northern District of California.

17
 18 THEREFORE, Defendant gives notice that the above action, which was
 19 pending in the Superior Court of the State of California, County of Marin, is hereby removed
 20 to this Court.

21
 22 Dated: June 22, 2011

MILLER LAW GROUP
 A Professional Corporation

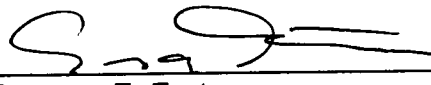
23
 24
 25 By: 
 26 Gregory F. Fortescue
 27 Attorneys for Defendant GEICO
 28 GENERAL INSURANCE COMPANY

Exhibit A

FILED

MAY 09 2011

KIM TURNER
Court Executive Officer
MARIN COUNTY SUPERIOR COURT
By: T. Fraguero, Deputy

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Attorneys for Plaintiff
TERRY THOMAS

**SUPERIOR COURT FOR THE STATE OF CALIFORNIA
FOR THE COUNTY OF MARIN**

TERRY THOMAS

Plaintiff,

vs.

GEICO GENERAL INSURANCE
COMPANY, doing business in the State of a
California, AND DOES 1-100, inclusive,
Defendant

Case No.:

COMPLAINT FOR DAMAGES

1. AGE DISCRIMINATION
2. WRONGFUL TERMINATION IN
VIOLATION OF PUBLIC POLICY;
3. SLANDER
4. INTENTIONAL INFLICTION OF
EMOTIONAL DISTRESS;

DEMAND FOR JURY TRIAL**PRELIMINARY ALLEGATIONS**

1. Plaintiff TERRY THOMAS, a male over the age of 40, is, and at all times mentioned in this complaint, a resident of MARIN COUNSY, State of California and a former employee of defendant GEICO GENERAL INSURANCE COMPANY.
2. Defendant GEICO GENERAL INSURANCE COMPANY, is, and at all times relevant herein mentioned, a corporation doing business in the state of California, and is an employer within the meaning of applicable state laws.

1 3. Unless otherwise alleged in this complaint, Plaintiff is informed and believes, and on the
2 basis of that information and belief alleges, that at all times mentioned in this complaint,
3 defendants were the agents and employees of their codefendants, and in doing the things
4 alleged in this complaint, were acting within the course and scope of that agency and
5 employment.

6 4. Plaintiff does not know the true names of defendants DOES 1 through 100, inclusive, and
7 therefore sues them by those fictitious names. Plaintiff is informed and believes that
8 DOES defendants are residents of the State of California. Plaintiff will seek leave of
9 court to amend this complaint to set forth their true names when they are ascertained.

10 GENERAL BACKGROUND FACTS

11
12 5. Plaintiff began his fulltime, permanent employment as a full-time Auto Damage Adjuster
13 with Defendant GEICO GENERAL INSURANCE COMPANY in or about September 3,
14 1996.

15 6. At all times relevant, and at the time of his termination, Plaintiff Terry Thomas was 71
16 years old and within the protected category under the Fair Employment and Housing Act.

17 7. Plaintiff is highly experienced in his profession and has served in the automobile
18 insurance industry as an adjustor as well as supervising adjustor, fulfilling various roles
19 in the adjusting field for nearly fifty years.

20 8. In the capacity of Auto Damage Adjuster, Plaintiff was responsible for the Assigned
21 Claims Areas originating in several North Bay Area territories, inclusive of the City of
22 Sonoma, Solano and Napa Counties. He had previously been assigned to work in Marin
23 and Sonoma Counties as a drive-in adjuster.
24
25

- 1 9. Plaintiff performed competently in his position and never had a record or history of poor
2 performance or discipline.
- 3 10. Beginning in or around January of 2009, Plaintiff began reporting to Supervisor Claims
4 Manager Jim Jones (under age 40).
- 5 11. From the very beginning of Plaintiff's reporting relationship under Jones it became
6 evident that Jones resented Plaintiff because of his age and was setting Plaintiff up for
7 termination because of Plaintiff's age.
- 8 12. Despite Plaintiff's record of competent performance that preceded his reporting
9 relationship with Jones, Jones placed additional assignments upon Plaintiff comparable to
10 that given to younger employees, under the age of 40, demanded additional
11 documentation on claims, rentals and supplements compared to what was asked for from
12 younger adjusters, and began to criticize and question Plaintiff's ability to complete his
13 work in a timely manner.
- 14 13. Geico did not allow payment for the time spent over 37.5 hours per week unless the time
15 was requested and approved by a manager, which would have been James Jones for
16 Plaintiff.
- 17 14. On Drive in days, Plaintiff would call up the daily drive in assignments at approximately
18 7:00 am. It was clear to management that Plaintiff would be expected to work additional
19 hours, however, to complete the assignments.
- 20 15. Because of the pressure placed upon him to complete his work, Plaintiff was fearful of
21 complaining that he worked additional overtime hours without compensation.
- 22 16. Plaintiff was also fearful of taking earned vacation time. In fact, by the time of his
23 wrongful termination, Plaintiff had accrued over 300 hours of earned vacation.
- 24
25

- 1 17. On November 6, 2009, Jones arbitrarily placed Plaintiff on a two month PIP
2 (Performance for Improvement Plan) that was to begin on that date, November 6, 2009.
- 3 18. Despite this plan, however, Plaintiff was given an ambiguous set of expectations without
4 any meaningful opportunity to meet the demands of the plan within the set time period.
- 5 19. During the last week of December 2009, Plaintiff was assigned a new Ford Fusion
6 automobile, reflective of the fact that he was, in fact, demonstrating a good record of
7 performance.
- 8 20. Jones issued a written warning to Plaintiff on January 4, 2010 in which Jones falsely cited
9 Plaintiff for two prior instances wherein Jones maintained that Plaintiff was not
10 performing sufficiently, and was causing embarrassment in connection with a matter that
11 did not even involve clients originally assigned to Plaintiff.
- 12 21. Jones then placed Plaintiff on probation for the period beginning from January 1, 2010
13 through March 31, 2010.
- 14 22. When Plaintiff was placed on probation, Plaintiff was given the understanding that he
15 would receive an evaluation at the end of that probationary period, which was to occur at
16 the conclusion of March, 2010.
- 17 23. On or about March 23, 2010, during the final week of the probationary period, Plaintiff
18 was contacted by Claims Manager Eric Stentz, who praised Plaintiff during the
19 conversation for his competent performance.
- 20 24. At the conclusion of March, 2010, however, Plaintiff was advised he had not met
21 warning guidelines and was asked to write a response to James Jones, which he did on
22 April 1, 2010.
- 23
24
25

1 25. In fact, Plaintiff had felt his performance had satisfied compliance with company
2 procedure.

3 26. On April 6, 2010, however, Plaintiff was contacted by Claims Supervisor Jones and
4 instructed to come into a meeting.

5 27. When Plaintiff arrived at the meeting, Plaintiff was met by Jones and Claims Manager
6 Stentz. A called was placed to Marilyn Collettie, Human Resource manager. Plaintiff was
7 then told he was discharged.

8 28. Stentz and Jones stated to Plaintiff that he needed to do what they referred to as "the right
9 thing," recommending that Plaintiff submit his resignation.

10 29. Plaintiff was then told, "that's how things are handled here at Geico."

11 30. Plaintiff informed the managers that he would not voluntarily resign and that his
12 performance, as recognized by Stentz during the conversation in March of 2010, had
13 been exemplary during the probationary period and there was no indication from
14 management that he had somehow performed deficiently during the probationary period.

15 31. Without stating anything further, the managers then told Plaintiff that they would be
16 riding with Plaintiff him to his home so that they could retrieve the company the car,
17 referring to the Ford Fusion, along with his company assigned cell phone, telling Plaintiff
18 that he would not be needing those items anymore. Plaintiff was thereby effectively
19 terminated from his position.

20 32. At the time of his termination, Plaintiff had accrued 379 hours of unused vacation time,
21 and his hourly rate of pay was \$26.62 per hour.

22 33. Plaintiff's effective termination date was April 7, 2010.
23
24
25

1 34. Despite having had a progressive disciplinary policy, Defendant entirely skipped the
 2 steps in that policy and terminated Plaintiff in a manner inconsistent with Defendant's
 3 own internal procedures and policies.

4 35. Plaintiff has fully exhausted remedies by filing a charge of discrimination with the
 5 Department of Fair Employment and Housing. Plaintiff has received his right to sue letter
 6 and now timely files this action.

7 36. All of the foregoing and following actions taken toward Plaintiff that are alleged in this
 8 complaint were carried out by managerial employees acting in a deliberate, cold, callous,
 9 malicious, oppressive, and intentional manner in order to injure and damage the Plaintiff
 10 while said employees were acting partially within and partially outside of the course and
 11 scope of their employment with defendant.
 12

13 **FIRST CAUSE OF ACTION:**
 14 **AGE DISCRIMINATION**
 15 **[Against DEFENDANT and DOES 1-100, Inclusive]**

16 37. Plaintiff realleges the information set forth in Paragraphs 1- 18 above, and incorporates
 17 these paragraphs into this cause of action as if they were fully alleged herein.

18 38. The Fair Employment and Housing Act (California Government Code 129200 et seq.) is
 19 the principal California statute prohibiting employment discrimination covering
 20 employers, labor organizations, employment agencies, apprenticeship programs and any
 21 person or entity who aids, abets, incites, compels, or coerces the doing of a
 22 discriminatory act. It prohibits employment discrimination based on race or color;
 23 religion; national origin or ancestry, physical disability; mental disability or medical
 24 condition; marital status; sex or sexual orientation; age, with respect to persons over the
 25 age of 40; and pregnancy, childbirth, or related medical conditions. The FEHA also

1 prohibits retaliation against for opposing any practice forbidden by the Act or for filing a
2 complaint, testifying, or assisting in proceedings under the FEHA.

3 39. At all times relevant to this matter, Plaintiff was an individual over 40 protected by the
4 provisions of the FEHA from unlawful age discrimination.

5 40. Defendant treated Plaintiff differently because of his age and discriminated against
6 Plaintiff because of his age, subjecting Plaintiff to harsher disciplinary standards,
7 circumventing policy and procedures and other standards otherwise applicable to
8 employees under age 40, and implemented arbitrary disciplinary measures designed and
9 calculated to lead to Plaintiff's termination.

10
11 41. Defendant also discriminated against Plaintiff because of his age by terminating him
12 because of his age and in contravention of policies and procedures that otherwise applied
13 to individuals under 40 or were applied in a more favorable manner to employees under
14 40 years of age.

15 42. As a direct and proximate result of the actions of Defendants, including the
16 discrimination in the terms and conditions of his employment and the termination of
17 Plaintiff's employment, Plaintiff has suffered and will continue to economic loss, pain
18 and suffering, and extreme and severe mental anguish and emotional distress; Plaintiff
19 has further suffered and will continue to suffer a loss of earnings and other employment
20 benefits, loss of professional reputation; whereby Plaintiff is entitled to general
21 compensatory damages in amounts to be proven at trial. Plaintiff is also entitled to
22 attorneys' fees and cost.

23
24 43. The conduct of Defendants described hereinabove was outrageous and was done with
25 malice, fraud and oppression and with conscious disregard for Plaintiff's rights and with

1 the intent, design and purpose of injuring Plaintiff. Defendant through its officers,
 2 managing agents and/or its supervisors, authorized, condoned and/or ratified the unlawful
 3 conduct described hereinabove. By reason thereof, Plaintiff is entitled to an award of
 4 punitive damages in an amount according to proof at time of trial.

5 **SECOND CAUSE OF ACTION:**
 6 **WRONGFUL TERMINATION and/or TORTIOUS CONSTRUCTIVE DISCHARGE IN**
 7 **VIOLATION OF PUBLIC POLICY**
[Against DEFENDANT and DOES 1-100, Inclusive]

8 44. Plaintiff realleges the information set forth in Paragraphs 1- 18 above, and incorporates
 9 these paragraphs into this cause of action as if they were fully alleged herein.

10 45. Under California law, no employee, whether they are an at-will employee, or an
 11 employee under a written or other employment contract, can be terminated for a reason
 12 that is in violation of a fundamental public policy.

13 46. Plaintiff is informed and believe, and based thereon alleges, that Defendants terminated
 14 Plaintiff's employment in violation of public policy of the State of California. Said
 15 actions violate the following statutes that affect society at large:

16 i) California Fair Employment and Housing Act

17 ii) California Civil Code §1709, which provides:

18 "One who willfully deceives another with intent to induce him to alter his position
 19 to his injury or risk, is liable for any damage which he thereby suffers."

20 iii) California Business and Professions Code §§ 17200-17500 et seq. which
 21 prohibits any unlawful, unfair or fraudulent business act or practice, a false or
 22 misleading statement;

23 iv) All other state and federal statutes, regulations, administrative orders, and
 24 ordinances which effect society at large, and which discovery will reveal were
 25 violated by Defendants. Such statutes include, but are not limited to, all
 applicable motor vehicle regulations, consumer protection laws and truthful
 disclosure laws.

47. Defendant terminated Plaintiff in violation of public policy by setting him up for termination because of his age, over 40, and by retaliating against Plaintiff for reporting and complaining of practices that violated the FEHA and Labor Code, which is inclusive of his having reported and complained that he was being discriminated against because of his age; Plaintiff's immediate supervisor engaged in deceit by placing Plaintiff on a false probation, abandoning company policies and procedures more favorably applied to individuals under 40, and terminating him for engaging in employer approved conduct.

48. California Civil Code §1709, provides for civil liability against one who one who willfully deceives another with intent to induce him to alter his position to his injury or risk, California Civil Code §1710, provides civil liability against one who provides information or facts that are not true and/or likely to mislead.

49. As a direct, foreseeable, and proximate result of the actions of Defendants as described above, Plaintiff has suffered, and continues to suffer, severe emotional distress, substantial losses in salary, bonuses, job benefits, and other employment benefits he would have received from Defendants, all to the Plaintiff's damage, in an amount unknown at this time but to be established at the time of trial.

50. Plaintiff prays for punitive damages against Defendants in an amount to be determined at the time of trial, that is sufficiently high to punish Defendants, deter them from engaging in such conduct in the future, and to make an example of them to others.

THIRD CAUSE OF ACTION:
SLANDER

[Against ALL DEFENDANTS and DOES 1 through 100, Inclusive]

51. Plaintiff realleges and incorporates the allegations of paragraphs 1 through 20 above as though set forth in full herein.

1 52. Following Plaintiff's termination, Defendant falsely reported to others that Plaintiff had
2 been deficient in his performance.

3 53. Defendant made further negative statements concerning Plaintiff and damaging to his
4 reputation.

5 54. As a proximate result of Defendants' aforementioned wrongful conduct, Plaintiff has
6 suffered and continues to suffer economic damages, loss of income, future wage loss, loss
7 of professional reputation, grave emotional distress, including embarrassment,
8 humiliation, and anguish, all to Plaintiff's damage in an amount unknown at this time, but
9 according to proof at the time of trial.
10

11 **FOURTH CAUSE OF ACTION:**
12 **INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**
13 **[Against ALL DEFENDANTS and DOES 1 through 100, Inclusive]**

14 55. Plaintiff realleges and incorporates the allegations of paragraphs 1 through 20 above as
15 though set forth in full herein.

16 56. Defendants' conduct, as thoroughly alleged above, was and is extreme and outrageous
17 conduct amounting to intentional infliction of emotional distress, which was intended to
18 and/or was done in conscious disregard of the probability of causing Plaintiff to suffer
19 severe emotional distress.

20 57. As a proximate result of Defendants' aforementioned wrongful conduct, Plaintiff has
21 suffered and continues to suffer grave emotional distress, including embarrassment,
22 humiliation, and anguish, all to Plaintiff's damage in an amount unknown at this time, but
23 according to proof at the time of trial.

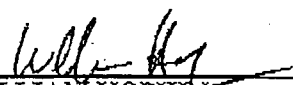
24 58. Defendants' conduct was willful, wanton, malicious, and with reckless disregard for the
25 rights of Plaintiff so as to justify an award of exemplary and punitive damages.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays that judgment be entered in their favor and against Defendants as follows:

1. For general and compensatory damages, including prejudgment interest, in an amount according to proof at trial;
2. For costs and reasonable attorney's fees and expenses of suit (were allowed by law);
4. For punitive damages where allowed by law;
4. Prejudgment interest on all amounts claimed; and
5. Such other and further relief as the court considers just and proper, including but limited to a declaration of rights.

DATED: April 2, 2011


WILLIAM HOPKINS
ATTORNEY FOR PLAINTIFF,
TERRY THOMAS

DEMAND FOR JURY TRIAL

Plaintiffs herein request a trial by jury on all matters as of right.

DATED: April 2, 2011


WILLIAM HOPKINS
ATTORNEY FOR PLAINTIFF

Exhibit B

1 Michele Ballard Miller (SBN 104198)
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2 Gregory F. Fortescue (SBN 249133)
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6 Attorneys for Defendant
7 GEICO GENERAL INSURANCE COMPANY

FILED

JUN 21 2011

KIM TURNER
Court Executive Officer
MARIN COUNTY SUPERIOR COURT
By: J. Chen, Deputy

8
9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 COUNTY OF MARIN
11

12 TERRY THOMAS,

13
14 Plaintiff,

15 v.

16 GEICO GENERAL INSURANCE COMPANY,
17 doing business in the State of a [sic]
California, AND DOES 1-100, inclusive,

18
19 Defendants.

Case No.: CIV 1102349

**DEFENDANT'S DENIAL AND
AFFIRMATIVE DEFENSES**

Complaint filed: May 9, 2011

20 Defendant GEICO GENERAL INSURANCE COMPANY ("Defendant") hereby
21 answers Plaintiff TERRY THOMAS' ("Plaintiff") Complaint as follows:
22

23 **GENERAL DENIAL**
24

25 Pursuant to Section 431.30(d) of the California Code of Civil Procedure,
26 Defendant hereby answers Plaintiff's Complaint by generally denying each and every
27 allegation contained therein. Defendant further denies that Plaintiff has been damaged in
28

1 any sum whatsoever, or that Plaintiff is entitled to the relief requested or any other relief, or
2 that Plaintiff has sustained any injury, damage, or loss by reason of any act, omission, or
3 negligence on the part of Defendant, or by reason of any act, omission, or negligence on the
4 part of any of Defendant's agents, servants, or employees. Defendant further denies that it
5 is liable to Plaintiff under any theory, including, without limitation, the theories of liability
6 asserted in the Complaint.

7
8 **AFFIRMATIVE DEFENSES**

9
10 Defendant alleges the affirmative defenses set forth herein as to each and
11 every cause of action and claim for relief asserted in the Complaint unless specified
12 otherwise. By pleading these affirmative defenses, Defendant does not assume the burden
13 of proving any fact, issue or element of a cause of action where such burden belongs to
14 Plaintiff.

15
16 The Complaint is vague, ambiguous, indefinite and uncertain. Therefore,
17 Defendant reserves the right to amend or supplement the affirmative defenses asserted
18 herein, and to present evidence supportive of different or additional defenses, upon
19 ascertaining the specific nature of the claims asserted by Plaintiff against Defendant.

20
21 **FIRST AFFIRMATIVE DEFENSE**

22 **(Failure to State a Claim)**

23
24 Plaintiff's Complaint, and/or each purported cause of action therein, fails to
25 state a claim upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE**(Statute of Limitations)**

Plaintiff's claims are barred, in whole or in part, by the applicable statute(s) of limitations, including but not limited to, California Code of Civil Procedure §§ 335.1, 338 and 343, California Government Code §§12960 and 12965(b), as well as any other statutes that include applicable time bars, because if the harm he alleges occurred (which Defendant denies), such harm occurred outside the time allowed by these statutes of limitations.

THIRD AFFIRMATIVE DEFENSE**(Failure To Exhaust Administrative Remedies)**

Defendant is informed and believes and thereon alleges that Plaintiff failed to exhaust his administrative remedies with the California Department of Fair Employment and Housing and/or the United States Equal Employment Opportunity Commission, and/or rely on allegations that were not contained in a timely complaint filed with the California Department of Fair Employment and Housing and/or the United States Equal Employment Opportunity Commission. See Cal. Gov't Code §§ 12960, 12965; see also *Martin v. Lockheed Missiles & Space Co.* (1994) 29 Cal.App.4th 1718, 1724.

FOURTH AFFIRMATIVE DEFENSE**(Subject Matter Jurisdiction)**

The Court lacks subject matter jurisdiction over any discrimination, harassment and/or retaliation claims and allegations in the Complaint which are not contained in a timely administrative charge filed by Plaintiff with the California Department of Fair Employment and Housing and/or the federal Equal Employment Opportunity Commission.

FIFTH AFFIRMATIVE DEFENSE

(Workers' Compensation Preemption)

Plaintiff was Defendant's employee and alleges he was injured as a result of his employment. Defendant had workers' compensation insurance or was self-insured for workers' compensation claims at the time of Plaintiff's alleged injury or injuries. Therefore, if Plaintiff has suffered any physical and/or emotional injury related to his work for Defendant, his exclusive remedy for such injury is provided by California Labor Code § 3200, *et seq.*

SIXTH AFFIRMATIVE DEFENSE

(Good Faith / Legitimate Business Reasons)

Plaintiff's claims are barred, in whole or in part, because all the actions and conduct by Defendant about which Plaintiff complains would have been made or taken regardless of any wrongful conduct alleged, were made without oppression, fraud or malice and were made in good faith for just, fair, privileged, justified, non-harassing, non-discriminatory, non-retaliatory and legitimate business reasons, based on all relevant facts and circumstances known by Defendant at the time it acted.

SEVENTH AFFIRMATIVE DEFENSE

(Avoidable Consequences)

Plaintiff is barred from any recovery because Defendant had in place and implemented in good faith, policies, procedures and other measures that were reasonably designed to prevent workplace discrimination, harassment and retaliation, Plaintiff unreasonably failed to invoke those measures or take other corrective actions regarding any perceived discrimination, harassment or retaliation, and to the extent Plaintiff suffered any harm (which Defendant denies), the reasonable use of such policies, procedures and other

measures would have prevented some or all of that harm.

EIGHTH AFFIRMATIVE DEFENSE

(Laches)

Defendant is informed and believes and thereon alleges that Plaintiff's claims are barred, in whole or in part, by the doctrine of laches.

NINTH AFFIRMATIVE DEFENSE

(Waiver and Estoppel)

Defendant is informed and believes and thereon alleges that Plaintiff, by his acts and omissions, has waived and is estopped and barred from alleging the matters set forth in his Complaint.

TENTH AFFIRMATIVE DEFENSE

(Doctrine of Unclean Hands)

Defendant is informed and believes and thereon alleges that Plaintiff is barred from any relief by the doctrine of unclean hands.

ELEVENTH AFFIRMATIVE DEFENSE

(Failure to Mitigate)

Defendant is informed and believed and thereon alleges that Plaintiff's claims are barred, in whole or in part, to the extent he has failed to exercise reasonable diligence to mitigate his damages alleged in the Complaint. The following allegations are likely to have evidentiary support after a reasonable opportunity for further investigation and/or discovery:

1 To the extent Plaintiff is seeking to recover lost wages, Plaintiff could, by diligence, have
2 found and retained employment substantially similar to his employment with Defendant.
3 Plaintiff failed and refused to act with sufficient diligence to find other employment. Plaintiff
4 also has failed and refused and continues to fail and refuse to exercise a reasonable effort
5 to retain any employment that he has secured. Plaintiff therefore has failed to mitigate his
6 damages.

7
8 **TWELFTH AFFIRMATIVE DEFENSE**

9 **(Failure to State a Claim – Punitive Damages)**

10
11 Defendant alleges that Plaintiff's claim for punitive damages fails to state a
12 claim under California Civil Code § 3294.

13
14 **THIRTEENTH AFFIRMATIVE DEFENSE**

15 **(After Acquired Evidence)**

16
17 Plaintiff's claims are barred, in whole or in part, to the extent Defendant has
18 discovered, or will discover, additional evidence indicating that Plaintiff has engaged in
19 conduct before or while Plaintiff was employed by Defendant that precludes or limits his
20 assertion of the claims for relief and/or damages presented in the Complaint.

21
22 **FOURTEENTH AFFIRMATIVE DEFENSE**

23 **(Vexatious Claim)**

24
25 Plaintiff's maintenance of this action is without foundation, vexatious, and
26 unreasonable, entitling Defendant to an award of attorneys' fees in the matter.

FIFTEENTH AFFIRMATIVE DEFENSE**(Consent)**

Defendant alleges that Plaintiff's claim for punitive damages fails to state a claim under California Civil Code § 3294.

SIXTEENTH AFFIRMATIVE DEFENSE**(Truth)**

As a separate and affirmative defense to Plaintiff's Third Cause of Action as set forth in his Complaint, Plaintiff's claims are barred, in whole or in part, to the extent Plaintiff is barred from recovery on the ground that the statements alleged to be slanderous or defamatory are true.

SEVENTEENTH AFFIRMATIVE DEFENSE**(Privileged Statements)**

As a separate and affirmative defense to Plaintiff's Third Cause of Action as set forth in his Complaint, Defendant denies that it published, ratified or authorized any of the alleged defamatory or slanderous statements attributed to it in the Complaint, but, if it should be determined otherwise, then Defendant alleges, upon information and belief, that such statements were privileged under California Civil Code section 47, subsections (b) and/or (c), and made without malice.

EIGHTEENTH AFFIRMATIVE DEFENSE**(ERISA Preemption under 514(a))**

As a separate and affirmative defense to Plaintiff's First and Second Causes of Action as set forth in his Complaint, Defendant alleges that, to the extent Plaintiff contends that Defendant made employment-related decisions that were unlawfully based upon or affected by determination(s) of eligibility for benefits under a plan regulated by the Employee Retirement Income Security Act ("ERISA"), 29 U.S.C. § 1001, *et. seq.*, or were motivated by a desire to prevent the attainment of such benefits under an ERISA-regulated plan, these causes of action are preempted by federal law (ERISA).

NINETEENTH AFFIRMATIVE DEFENSE**(ERISA Preemption under § 502(a))**

As a separate and affirmative defense to Plaintiff's First and Second Causes of Action as set forth in his Complaint, Defendant alleges that, to the extent that the "job benefits" and "other employment benefits" that Plaintiff(s) seek to recover in this action (See Plaintiff's Complaint, at ¶¶ 42, 49) include any benefits allegedly due or the clarification of rights under a plan regulated by the Employee Retirement Income Security Act ("ERISA"), 29 U.S.C. § 1001, *et. seq.*, the Complaint, and/or each purported cause of action therein, is preempted by federal law (ERISA).

TWENTIETH AFFIRMATIVE DEFENSE**(Not Employer)**

As a separate and affirmative defense to Plaintiff's First and Second Causes of Action as set forth in his Complaint, Defendant is not liable to Plaintiff on any of these alleged claims for relief to the extent that Defendant was not, at the time of the alleged

wrongful conduct, the employer of Plaintiff.

RESERVATION OF RIGHTS

Defendant has not yet completed a thorough investigation and study or completed discovery of all facts and circumstances of the subject matter of the Complaint, and, accordingly, reserves the right to amend, modify, revise or supplement this Answer, and to plead such further defenses and take such further actions as it may deem proper and necessary in its defense upon the completion of said investigation and study.

WHEREFORE, Defendant prays for judgment as follows:

1. That Plaintiff take nothing by this action;
2. That the Complaint be dismissed in its entirety with prejudice, and judgment entered in favor of Defendant;
3. That Defendant be awarded its costs of suit;
4. That Defendant be awarded its attorneys' fees according to proof; and
5. That the Court award Defendant such other and further relief as the Court may deem proper.

Dated: June 21, 2010

MILLER LAW GROUP
A Professional Corporation

By: 

Gregory F. Fortescue
Attorneys for GEICO GENERAL
INSURANCE COMPANY

PROOF OF SERVICE

I, Cheryl Bower, declare that I am employed at Miller Law Group, A Professional Corporation, whose address is 111 Sutter Street, Suite 700, San Francisco, CA 94104; I am over the age of eighteen (18) years and am not a party to this action. On the below date, by the method noted below, I served the following document(s):

DEFENDANT'S GENERAL DENIAL AND AFFIRMATIVE DEFENSES

on the interested parties in this action by placing a true and correct copy thereof, enclosed in a sealed envelope addressed as follows:

William R. Hopkins
Attorney at Law
1 Blackfield Drive, No. 344
Tiburon, CA 94920

Attorney for Plaintiff: *TERRY THOMAS*

Tel: (415) 435-5507
Fax: (415) 762-5202
Email: wrhopkins3@prodigy.net

☒ **BY MAIL:** By placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the ordinary course of business for collection and mailing on this date at Miller Law Group, 111 Sutter Street, San Francisco, California. I declare that I am readily familiar with the business practice of Miller Law Group for collection and processing of correspondence for mailing with the United States Postal Service and that the correspondence would be deposited with the United States Postal Service that same day in the ordinary course of business.

☒ I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on June 21, 2011 at San Francisco, California.



Cheryl Bower

Exhibit C



**Service of Process
Transmittal**

05/23/2011

CT Log Number 518563206



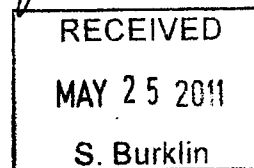
TO: Shawn Alfred Burklin
GEICO Casualty Company
14111 Danielson Street
Poway, CA 92064-6886

RE: Process Served in California

FOR: GEICO General Insurance Company (Domestic State: MD)

ENCLOSED ARE COPIES OF LEGAL PROCESS RECEIVED BY THE STATUTORY AGENT OF THE ABOVE COMPANY AS FOLLOWS:

TITLE OF ACTION: Terry Thomas, Pltf. vs. Geico General Insurance Company, etc., et al., Dfts.
DOCUMENT(S) SERVED: Summons, Cover Sheet, Complaint
COURT/AGENCY: Marin County, Superior Court, CA
Case # CIV1102349
NATURE OF ACTION: Employee Litigation - Discrimination - Wrongful termination on the basis of age
ON WHOM PROCESS WAS SERVED: C T Corporation System, Los Angeles, CA
DATE AND HOUR OF SERVICE: By Process Server on 05/23/2011 at 15:05
JURISDICTION SERVED: California
APPEARANCE OR ANSWER DUE: Within 30 days after service
ATTORNEY(S) / SENDER(S): William R. Hopkins
1 Blackfield Drive
No. 344
Tiburon, CA 94920
415-435-5507
ACTION ITEMS: SOP Papers with Transmittal, via Fed Ex Standard Overnight , 794789787762
SIGNED: C T Corporation System
PER: Nancy Flores
ADDRESS: 818 West Seventh Street
Los Angeles, CA 90017
TELEPHONE: 213-337-4615



5-22-11 copy
2:25

SUM-100

**SUMMONS
(CITACION JUDICIAL)****NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):**

GEICO GENERAL INSURANCE COMPANY, doing business in the State of a California, AND DOES 1-100, inclusive

**YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTÁ DEMANDANDO EL DEMANDANTE):**

Terry Thomas

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)**FILED**

MAY 09 2011

KIM TURNER
Court Executive Officer
MARIN COUNTY SUPERIOR COURT
By: T. Fraguero, Deputy

NOTICE: You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. **NOTE:** This court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. **(AVISO: Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.)**

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de extensión de pago de costas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 o más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte puede desahogar el caso.

The name and address of the court is:
(El nombre y dirección de la corte es):

Marin County Superior Court, 3501 Civic Center Drive
San Rafael, California 94903

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):
William Hopkins, Attorney, 1 Blackfield Drive, #344, Tiburon, CA 94920 (415) 435-5507

CASE NUMBER:
(Número del Caso):

CIV1102349

DATE
(Fecha) MAY 09 2011

Clerk, by
(Secretario)

KIM TURNER
T. FRAGUERO Deputy
(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)
(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

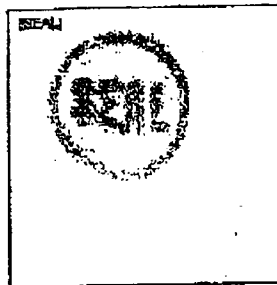
NOTICE TO THE PERSON SERVED: You are served

1. ☐ as an individual defendant.
2. ☐ as the person sued under the fictitious name of (specify):

3. ☒ on behalf of (specify): Geico General Insurance Company, doing business in the State of California

- under: ☒ CCP 416.10 (corporation) ☐ CCP 416.60 (minor)
☐ CCP 416.20 (defunct corporation) ☐ CCP 416.70 (conservatee)
☐ CCP 416.40 (association or partnership) ☐ CCP 416.90 (authorized person)
☐ other (specify):

4. ☐ by personal delivery on (date):



CM-010

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): William Hopkins, SBN 170122 1 Blackfield Drive, #344 Tiburon, CA 94920 TELEPHONE NO: 415 435-5507 FAX NO: 415 762-5202 ATTORNEY FOR (Name): Terry Thomas		FOR COURT USE ONLY MAY 09 2011
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Marin STREET ADDRESS: 3501 Civic Center Drive MAILING ADDRESS: CITY AND ZIP CODE: San Rafael, California 94903 BRANCH NAME:		
CASE NAME: Terry Thomas v. Geico General Insurance Company, et al		
CIVIL CASE COVER SHEET <input checked="" type="checkbox"/> Unlimited (Amount demanded exceeds \$25,000) <input type="checkbox"/> Limited (Amount demanded is \$25,000 or less)		CASE NUMBER: CIV 110 2349 JUDGE: J. O'Neil DEPT: 6
Complex Case Designation <input type="checkbox"/> Counter <input type="checkbox"/> Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)		

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:
- | | | |
|---|--|---|
| Auto Tort
<input type="checkbox"/> Auto (22)
<input type="checkbox"/> Uninsured motorist (48)
Other PIPD/W (Personal Injury/Property Damage/Wrongful Death) Tort
<input type="checkbox"/> Asbestos (04)
<input type="checkbox"/> Product liability (24)
<input type="checkbox"/> Medical malpractice (45)
<input type="checkbox"/> Other PIPD/W (23)
Non-PIPD/W (Other) Tort
<input type="checkbox"/> Business tort/unfair business practice (07)
<input type="checkbox"/> Civil rights (08)
<input type="checkbox"/> Defamation (13)
<input type="checkbox"/> Fraud (16)
<input type="checkbox"/> Intellectual property (19)
<input type="checkbox"/> Professional negligence (25)
<input type="checkbox"/> Other non-PIPD/W tort (35)
Employment
<input checked="" type="checkbox"/> Wrongful termination (36)
<input type="checkbox"/> Other employment (15) | Contract
<input type="checkbox"/> Breach of contract/warranty (06)
<input type="checkbox"/> Rule 3.740 collections (09)
<input type="checkbox"/> Other collections (09)
<input type="checkbox"/> Insurance coverage (18)
<input type="checkbox"/> Other contract (37)
Real Property
<input type="checkbox"/> Eminent domain/inverse condemnation (14)
<input type="checkbox"/> Wrongful eviction (33)
<input type="checkbox"/> Other real property (28)
Unlawful Detainer
<input type="checkbox"/> Commercial (31)
<input type="checkbox"/> Residential (32)
<input type="checkbox"/> Drugs (38)
Judicial Review
<input type="checkbox"/> Asset forfeiture (05)
<input type="checkbox"/> Petition re: arbitration award (11)
<input type="checkbox"/> Writ of mandate (02)
<input type="checkbox"/> Other judicial review (39) | Provisionally Complex Civil Litigation
(Cal. Rules of Court, rules 3.400-3.403)
<input type="checkbox"/> Antitrust/Trade regulation (03)
<input type="checkbox"/> Construction defect (10)
<input type="checkbox"/> Mass tort (40)
<input type="checkbox"/> Securities litigation (28)
<input type="checkbox"/> Environmental/Toxic tort (30)
<input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41)
Enforcement of Judgment
<input type="checkbox"/> Enforcement of judgment (20)
Miscellaneous Civil Complaint
<input type="checkbox"/> RICO (27)
<input type="checkbox"/> Other complaint (not specified above) (42)
Miscellaneous Civil Petition
<input type="checkbox"/> Partnership and corporate governance (21)
<input type="checkbox"/> Other petition (not specified above) (43) |
|---|--|---|
2. This case ☐ is ☒ is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- | | |
|--|--|
| a. <input type="checkbox"/> Large number of separately represented parties | d. <input type="checkbox"/> Large number of witnesses |
| b. <input type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve | e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court |
| c. <input type="checkbox"/> Substantial amount of documentary evidence | f. <input type="checkbox"/> Substantial postjudgment judicial supervision |
3. Remedies sought (check all that apply): a. ☒ monetary b. ☒ nonmonetary; declaratory or injunctive relief c. ☒ punitive
4. Number of causes of action (specify): 4
5. This case ☐ is ☒ is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: April 2, 2011

William Hopkins, Attorney

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

Page 1 of 2

Exhibit D

1 Michele Ballard Miller (SBN 104198)
mbm@millerlawgroup.com

2 Gregory F. Fortescue (SBN 249133)
gff@millerlawgroup.com

3 MILLER LAW GROUP
A Professional Corporation
4 111 Sutter Street, Suite 700
San Francisco, CA 94104
5 Tel. (415) 464-4300
Fax (415) 464-4336

6 Attorneys for Defendant
7 GEICO GENERAL INSURANCE COMPANY

8
9
10 SUPERIOR COURT OF THE STATE OF CALIFORNIA
11 MARIN COUNTY SUPERIOR COURT

12 TERRY THOMAS,

13
14 Plaintiff,

15 v.

16 GEICO GENERAL INSURANCE COMPANY,
17 doing business in the State of a [sic] California
and DOES 1- 100, inclusive,

18
19 Defendant.

Case No.: CIV-1102349

**NOTICE TO SUPERIOR COURT AND TO
ADVERSE PARTY OF REMOVAL OF
ACTION TO FEDERAL COURT**

Complaint filed: May 9, 2011

20
21 TO THE ABOVE-ENTITLED COURT AND TO PLAINTIFF AND HIS ATTORNEYS OF
22 RECORD:

23
24 PLEASE TAKE NOTICE THAT on June 22, 2011, Defendant GEICO
25 GENERAL INSURANCE COMPANY ("Defendant") filed in the United States District Court
26 for the Northern District of California its Notice of Removal of Action under 28 U.S.C. §
27
28

1 1441(a) (Diversity). A copy of that Notice of Removal is attached to this Notice as **Exhibit**
2 **1**, and is served and filed herewith.

3
4 PLEASE TAKE FURTHER NOTICE that, pursuant to 28 U.S.C. § 1446(d), the
5 filing of said Notice of Removal of Action in the United States District Court, together with
6 the filing of this Notice to the Superior Court and Adverse Party, effects the removal of this
7 action, and that this Court is directed to "proceed no further unless and until the case has
8 been remanded." 28 U.S.C. § 1446(d).

9
10 Dated: June 22, 2011

MILLER LAW GROUP
A Professional Corporation

11
12
13 By: 

14 Gregory F. Fortescue
15 Attorneys for Defendant GEICO
16 GENERAL INSURANCE COMPANY

17
18 4827-4518-4265, v. 1
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